

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

COMMODITY FUTURES TRADING
COMMISSION,

Plaintiff,

v.

PATRICK K. MCDONNELL,
and CABBAGETECH, CORP. d/b/a COIN
DROP MARKETS,

Defendants.

Case No. 18-CV-00361 (JBW) (RLM)

**DECLARATION IN SUPPORT OF MOTION
TO DISMISS FOR INSUFFICIENT EVIDENCE**

DECLARATION

In opposition of Plaintiff Complaint alleging that Defendant violated sections of THE COMMODITY EXCHANGE ACT AND COMMISSION REGULATIONS “specifically”; **Count 1--Fraud by Deceptive Device or Contrivance; Violations of § 6(c)(1) of the Act and Regulation 180.1 (a).** Defendant again, moves the Court to dismiss Plaintiff Complaint and alleged Count(s) ‘with prejudice’ on the grounds; **Insufficient Evidence Lacking Burden Of Proof For Criminal Proceeding; Subject-matter jurisdiction** (pursuant to Rule 12 (b)(1), Fed. R. Civ. P.) and/or **Personal jurisdiction** (pursuant to Rule 12 (b)(2), Fed. R. Civ. P.) and **Failure to state a claim upon relief can be granted** (pursuant to Rule 12 (b)(6), Fed. R. Civ. P.)

Id. **“THE COURT: You have no wiretaps of the Defendant operating in this way? MR. HURAND: Unfortunately, our civil authority I think is not as extensive as the criminal authority.”** [quoting *CFTC vs MCDONNELL*; TUESDAY JULY 10, 2018 HEARING MINUTES Pages 198; 24-25 and Pages 199; 1-5]

'Complete' basis for Defendant Motion are set forth in the accompanying
MEMORANDUM OF LAW.

July 16, 2018

/s/ Patrick K. McDonnell

Defendant/Pro Se

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